CONTRACTS—AGREEMENT TO GIVE EMPLOYEE "FAIR SHARE OF PROFITS" VOID FOR INDEFINITENESS.—Defendant, an architect, employed plaintiff as a draftsman. After working for some time plaintiff was offered a position elsewhere and defendant, in order to induce plaintiff to remain with him, gave him an increase in salary and agreed to give him a "fair share of the profits" of the business as determined when he should close his books on the first of the following January. Plaintiff was discharged before that date and now sues to recover his share of the profits. *Held,* Plaintiff cannot recover. The agreement to give a "fair share of the profits" is too vague, uncertain and indefinite to be enforced. In addition to being uncertain the determination of what is a "fair" share of the profits under the circumstances of the business of defendant is dependent upon so many other circumstances that the intention of the parties is pure conjecture. *Varney* v. *Ditmars,* (N. Y. 1916) 111 N. E. 822.

Three judges dissented from the view taken by the majority of the court. The position taken by CARDOZO, J., who wrote the dissenting opinion, is that a promise to pay an employee a fair share of the profits is not of necessity too vague to be enforced. This view is sustained by the Massachusetts Court in cases where the promise was very similar to that under consideration in the principal case. *Noble* v. *Joseph Burnett Co.,* 208 Mass. 75, 94 N. E. 289; *Brennan* v. *Employers' Liability Assurance Corp., Ltd.,* 213 Mass. 365, 100 N. E. 633. On the other hand a great many courts have refused to allow recovery on agreements no less definite than the one in question. *Fairplay School Township* v. *O'Neill,* 27 Ind. 95, 26 N. E. 686; *Van Slyke* v. *Broadway Ins. Co.,* 115 Cal. 644, 47 Pac. 689, 928; *Taylor* v. *Brewer,* 1 M. & S. 290, 21 R. R. 831. The principal question in the cases of this character would seem to be one of fact as to whether or not the minds of the parties met, and at the time of the agreement intended that the terms used should designate some amount or share as the one upon which they could agree. If this agreement refers to something by which the amount the parties intended to agree upon can be ascertained the courts will undoubtedly give effect to it. But if something is left for future adjustment, the minds of the parties have not yet met, the agreement is not complete, and cannot be enforced. *Watts* v. *Weston,* 62 Fed. 136, 10 C. C. A. 302, 26 U. S. App. 121; *Wittowsky* v. *Wasson,* 71 N. C. 451; *Dayton* v. *Stone,* 111 Mich. 196, 69 N. W. 515. It seems probable therefore that if the court could have said from the agreement reached by the parties that their minds had actually met upon some method of ascertaining a fair share of the profits, or if proof had been offered that there was a customary method of making such finding, the decision of the courts would have been for the plaintiff.

CORPORATIONS—LIABILITY FOR SLANDER.—An action was brought to recover damages for slander against the plaintiff by an agent of the defendant, a New York corporation. The lower court held that although the words were actionable per se, the plaintiff could not recover because no action could be maintained against a corporation for slander. The decision was based on the decision in *Eichner* v. *Bowery Bank,* 24 App. Div. 63, 48 N. Y. Supp. 978, which held that "a corporation can act only by or through its officers or

agents, and as there can be no agency for slander, it follows that a corporation cannot be guilty of slander." The Court of Appeals in reversing the decision of the lower court *held* that the true rule is that a corporation is liable for torts committed by its officers or agents, when acting within the actual or implied scope of their employment. It expressly overruled the *Eichner* v. *Bowery Bank* case, supra, saying the archaic doctrine on which that case was based has long since been exploded. *Klaras* v. *Barron C. Collier,* (N. Y. 1916) 111 N. E. —.

For a discussion of the liability of corporations for their torts generally, see 14 MICH. LAW REV. 506-7.

COVENANTS—WARRANTY BY STRANGER TO TITLE.—Defendants, husband and wife, conveyed certain lands by warranty deed, the wife joining but having no title or estate in the land conveyed except her statutory dower. Their grantee conveyed to plaintiff who now sues for breach of covenants because of an encumbrance on the land. *Held,* that the wife is not liable on the covenant of warranty, as, being a stranger to the title, her covenant would not run with the land. *H. T. & C. Co.* v. *Whitehouse,* (Utah 1916) 154 Pac. 950.

It is usually stated as a general rule that for a covenant to run with the land it must not only touch and concern the land or estate granted but there must be a privity of estate between the covenanting parties, *Keppell* v. *Bailey,* 2 Myl. & K. 517; *Rogers* v. *Hosegood,* [1900] 2 Chan. 388; *Cole* v. *Hughes,* 54 N. Y. 444; *Hurd* v. *Curtis,* 19 Pick. (Mass.) 459; *Lyon* v. *Parker,* 45 Me. 474; *Town of Middletown* v. *Newport Hospital,* 16 R. I. 319; *Easter* v. *Little Miami Ry. Co.,* 14 Ohio St. 48. But as to the necessity for privity of estate between covenanting parties see HOLMES, J., in *Norcross* v. *James,* 140 Mass. 188. To meet the requirement of privity of estate it is not necessary that there be a relation of tenure in the feudal sense. *Van Renssalaer* v. *Read,* 26 N. Y. 558, 574. The acquisition or conveyance of subordinate and incorporeal interests such as easements has been held sufficient. *Nye* v. *Hoyle,* 120 N. Y. 195; *Morse* v. *Aldrich,* 19 Pick, (Mass.) 449; *Bronson* v. *Coffin,* 108 Mass. 175; *Hazlitt* v. *Sinclair,* 76 Ind. 488; *Fitch* v. *Johnson,* 124 Ill. 111; *Puden* v. *Chicago R. I. & R. Ry. Co.,* 73 Iowa, 329; *St. Louis I. M. & S. Ry. Co.* v. *O'Baugh,* 49 Ark. 418. Even the passing of the lowest estate possible, mere seisin in fact or possession, has been held to constitute privity of estate within this rule. *Slater* v. *Rawson,* 6 Met. (Mass.) 439; *Dickinson* v. *Hoomes,* 8 Gratt (Va.) 353, 395; *Morton* v. *Thompson,* 69 Vt. 432, 438; *Beddoe* v. *Wadsworth,* 2 Wend. (N. Y.) 120. To the effect that the benefit of a covenant will run with the land in the absence of privity, see *Shaber* v. *St. Paul Water Co.,* 30 Minn. 179; *Gaines' Adm'x* v. *Poor,* 3 Metc. (Ky.) 503; HOLMES, THE COMMON LAW, 404, WILLISTON'S WALD'S POLLOCK, CONTRACTS, (3 Am. Ed.) 300. Covenants for title run with the land till breach. RAWLE, Cov., (4th Ed.) 318, and in view of the generally prevailing doctrine it is difficult to see why privity of estate between the covenanting parties should not be necessary to make such covenants available to a remote grantee. In fact the rule as declared by the weight of authority seems to be that a cove-